IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION No. 9038 of 2005

RATAN TUKARAM NANAVARE AND ORS. ... Petitioners
V/S
MADHUKAR BABURAO WAGHMARE .. Respondent

Mr. Uday P. Warunjikar for petitioner
Mr. Rahul S. Kate for respondent.

CORAM: S. B. MHASE J.
DATE:20/04/2006

P.C.:

1. Regular Civil Suit NO. 99 of 2004 was filed by the respondent as against the present petitioner in respect of Gat No. 825, admeasuring 55 ares situate at village Shelgaon, Taluka Indapur, District Pune. The said suit has been filed for perpetual injunction on the basis of the title and possession of the suit property. Along with the suit, application exhibit 5 was filed seeking temporary injunction under Order 39 of the C.P.C. The said application was allowed by the Joint Civil Judge, Senior Division, Indapur, by order dated 1/11/2004 and thus the petitioners are restrained from interfering with the peaceful possession of the respondent. The said order was challenged by the petitioners by filing

Misc. Civil Appeal NO.2 of 2005 before the Additional District Judge, Baramati and the said appeal is dismissed. Hence the present petition.

2. It is brought to the notice of this court that the respondent is claiming injunction in respect of the area bearing Gat No. 825 and the petitioners – original defendants are not claiming any interest in the suit property. On the contrary the petitioners are claiming that they are owners of block no. 3410 and according to them it is alluvial land which was numbered by the Department and the said land has been allotted to the petitioners. Accordingly the mutations have been effected in the record of rights and since 1993 they are in possession of block no. 3410. Thus on going through the rival contentions it appears that both the parties are respectively claiming different properties. In view of this learned counsel for respondent Mr. Kate made a statement that the original plaintiff will not disturb the possession of the defendant in block no. 3410, on the basis of the injunction order obtained by him in the Regular Civil Suit No. 99 of 2004.
3. Learned counsel Mr. Warunjikar who appears for the petitioner – original defendant also makes a statement that the petitioners will not disturb the possession of the respondent herein in respect of the Gat no. 825, which is the suit property.
4. Both the statements made by the learned counsel are hereby

accepted and therefore the following order is passed:

The petitioner shall not disturb the possession of the respondent in block no. 825 and so also the respondent shall not disturb the petitioners' possession in block NO. 3410. With these observations and clarifications the petition is dismissed.

(S. B. MHASE J.)